

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USDC Docket Number : 05-cv-10573

Joseph Peter Schmitt

v.

Massachusetts Department of Corrections

CLERK'S CERTIFICATE

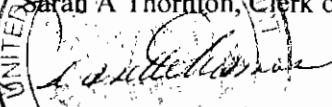
I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents numbered:

1-62

and contained in I Volume(s) are the original or electronically filed pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 9/19/2007.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on September 26, 2007.

By:

Sarah A Thornton, Clerk of Court

Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 9/26/07


Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:05-cv-10573-RWZ**

Schmitt v. Massachusetts Department of
Corrections et al
Assigned to: Judge Rya W. Zobel
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 03/25/2005
Date Terminated: 07/10/2007
Jury Demand: None
Nature of Suit: 550 Prisoner:
Civil Rights
Jurisdiction: Federal Question

Plaintiff

Joseph Peter Schmitt

represented by **Joseph Peter Schmitt**
Massachusetts Treatment
Center
30 Administration Road
Bridgewater, MA 02324
PRO SE

V.

Defendant

**Massachusetts Department
of Corrections**

represented by **Jody Adams Brenner**
Department of Correction
70 Franklin Street
Suite 600
Boston, MA 02110
617-727-3300
Fax: 617-727-7403
Email:
jabrenner@doc.state.ma.us
*ATTORNEY TO BE
NOTICED*

Defendant

Michael T. Maloney

TERMINATED: 02/05/2007

Defendant

Peter Allen

Superintendent

TERMINATED: 02/05/2007

Defendant

William Grossi

IPS Commander

TERMINATED: 02/05/2007

Defendant

Carter Thomas

IPS Officer

TERMINATED: 02/05/2007

Defendant

Jeffrey Smith

IPS Officer

TERMINATED: 02/05/2007

Defendant

Patrick Mulvey

IPS Sergeant

TERMINATED: 02/05/2007

Defendant

David Nolan

Acting Superintendent

TERMINATED: 02/05/2007

Defendant

Sergeant Stephen Kennedy

Investigator

TERMINATED: 02/05/2007

Defendant

Kathleen Dennehy

represented by **Jody Adams Brenner**
 (See above for address)
ATTORNEY TO BE
NOTICED

Date Filed	#	Docket Text
02/18/2005	<u>31</u>	MOTION for Leave to Proceed in forma pauperis by Joseph Peter Schmitt.(Jenness, Susan) (Entered: 03/25/2005)
02/18/2005	<u>31</u>	AFFIDAVIT of Joseph Peter Schmitt re <u>1</u> MOTION for Leave to Proceed in forma pauperis by Joseph Peter Schmitt. (Jenness, Susan) (Entered: 03/25/2005)
02/18/2005	<u>32</u>	COMPLAINT against David Nolan, Stephen Kennedy, Kathleen Dennehy, Massachusetts Department of Corrections, Michael T. Maloney, Peter Allen, William Grossi, Carter Thomas, Jeffrey Smith, Patrick Mulvey Filing fee: \$ 0.00, receipt number 0.00, filed by Joseph Peter Schmitt.(Jenness, Susan) Additional attachment(s) added on 3/28/2005 (Jenness, Susan). Additional attachment(s) added on 3/28/2005 (Jenness, Susan). (Entered: 03/25/2005)
02/18/2005	<u>3</u>	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Dein. (Jenness, Susan) (Entered: 03/25/2005)
05/31/2005	<u>33</u>	Judge George A. O'Toole Jr.: ORDER entered. ORDER REASSIGNING CASE. This action is "related," within the meaning of Local Rule 40.1(G) (1), to another action filed by Schmitt now pending before Judge Rya W. Zobel of this court. See Schmitt v. Mulvey, C.A. No. 04-10717-RWZ. This present action is therefore reassigned to Judge Rya W. Zobel for all further proceedings. Judge George A. O'Toole,

		Jr. is no longer assigned to case. (McGlamery, Jeanette) (Entered: 06/15/2005)
07/22/2005	34	Judge Rya W. Zobel : ORDER entered denying <u>1</u> Motion for Leave to Proceed in forma pauperis. The plaintiff's application to proceed without prepayment of fees is DENIED. If the plaintiff does not pay the \$250.00 filing fee within thirty-five (35) days of the date of this order, the case will be dismissed without prejudice for failure to pay the filing fee. (McGlamery, Jeanette) (Entered: 07/22/2005)
09/20/2005	35	MOTION for Reconsideration re <u>4</u> Order on Motion for Leave to Proceed in forma pauperis, by Joseph Peter Schmitt.(Johnson, Jay) Additional attachment(s) added on 9/21/2005 (Johnson, Jay). (Entered: 09/21/2005)
09/20/2005	36	Letter/request (non-motion) from Joseph Schmitt regarding motion to reconsider. (Johnson, Jay) (Entered: 09/21/2005)
04/13/2006	3	DOCKET SHEET sent to Joseph P Schmitt. (Sonnenberg, Elizabeth) (Entered: 04/13/2006)
04/14/2006	37	Judge Rya W. Zobel : ORDER entered granting <u>5</u> Motion for Reconsideration. It is FURTHER ORDERED that plaintiff's application to proceed in forma pauperis under 28 U.S.C. Section 1915 is hereby GRANTED, and it is FURTHER ORDERED that the Clerk shall issue summonses and the United States Marshal shall serve a copy of the summons, complaint, and this order upon defendant(s) as directed by plaintiff with all costs of service to be advanced by the United States. Additional attachment (s) added on 4/19/2006 (PSSA, 2). (Entered: 04/19/2006)
04/19/2006	3	Summons Issued as to David Nolan, Stephen Kennedy, Kathleen Dennehy, Massachusetts

		Department of Corrections, Michael T. Maloney, Peter Allen, William Grossi, Carter Thomas, Jeffrey Smith, Patrick Mulvey. (PSSA, 2) (Entered: 04/19/2006)
05/01/2006	<u>38</u>	MOTION to Appoint Counsel by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 05/02/2006)
05/05/2006	<u>39</u>	EMERGENCY MOTION for Court Order by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 05/05/2006)
05/10/2006	<u>310</u>	Addendum to plaintiff's emergency motion for court order dated 4/28/06 (Johnson, Jay) (Entered: 05/12/2006)
05/22/2006	<u>311</u>	Judge Rya W. Zobel : endorsedORDER entered denying 8 Motion to Appoint Counsel, denying 9 Motion for Order (Urso, Lisa) (Entered: 05/23/2006)
05/22/2006	<u>312</u>	US Marshal Process Receipt and Return for Civil Rights Action. Mass.Dept of Correction (Kathleen Dennehy) served Delivered on 5/12/06 (Johnson, Jay) Modified on 5/23/2006 (Johnson, Jay). (Entered: 05/23/2006)
05/22/2006	<u>313</u>	US Marshal Process Receipt and Return for Civil Rights Action. Mass. Dept of Correction served Delivered on 5/12/06 (Johnson, Jay) (Entered: 05/23/2006)
05/22/2006	<u>314</u>	US Marshal Process Receipt and Return for Civil Rights Action. Bridgewater State Hospital ("Steven Kennedy will not be available for 2 weeks from service date".) served Delivered on 5/12/06 (Johnson, Jay) (Entered: 05/23/2006)
06/06/2006	<u>315</u>	Letter/request (non-motion) from Plaintiff requesting copies. (Johnson, Jay) (Entered: 06/07/2006)
06/06/2006	<u>316</u>	MOTION for Reconsideration and written memorandum of decision by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 06/07/2006)

06/29/2006	<u>17</u>	MOTION for Court Order by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 07/05/2006)
07/18/2006	<u>18</u>	Request for notice of default. (Attachments: # <u>1</u> Affidavit)(Johnson, Jay) (Entered: 07/20/2006)
07/20/2006	<u>19</u>	Judge Rya W. Zobel : ORDER entered denying <u>16</u> Motion for Reconsideration, denying <u>17</u> Motion for Order (Urso, Lisa) (Entered: 07/20/2006)
07/20/2006	<u>20</u>	NOTICE of Appearance by Jody T. Adams on behalf of Kathleen Dennehy, Massachusetts Department of Corrections (Adams, Jody) (Entered: 07/20/2006)
07/20/2006	<u>21</u>	MOTION for Extension of Time to September 8, 2006 to File Answer by Kathleen Dennehy, Massachusetts Department of Corrections.(Adams, Jody) (Entered: 07/20/2006)
07/20/2006	<u>22</u>	Response by Kathleen Dennehy, Massachusetts Department of Corrections to <u>18</u> Request for notice of default. (Adams, Jody) (Entered: 07/20/2006)
08/07/2006	<u>3</u>	Judge Rya W. Zobel : endorsedORDER entered granting <u>21</u> Motion for Extension of Time to Answer David Nolan answer due 9/8/2006; Stephen Kennedy answer due 9/8/2006; Kathleen Dennehy answer due 9/8/2006; Massachusetts Department of Corrections answer due 9/8/2006; Michael T. Maloney answer due 9/8/2006; Peter Allen answer due 9/8/2006; William Grossi answer due 9/8/2006; Carter Thomas answer due 9/8/2006; Jeffrey Smith answer due 9/8/2006; Patrick Mulvey answer due 9/8/2006. (Urso, Lisa) (Entered: 08/08/2006)
08/29/2006	<u>23</u>	MOTION to Vacate <i>Plaintiff's Indigency Status</i> by Kathleen Dennehy. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2)(Adams, Jody) (Entered: 08/29/2006)
08/31/2006	<u>24</u>	MOTION to Dismiss by all defendants.(Adams, Jody) (Entered: 08/31/2006)

09/08/2006	<u>325</u>	Opposition re <u>23</u> MOTION to Vacate <i>Plaintiff's Indigency Status</i> filed by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 09/12/2006)
09/08/2006	<u>326</u>	MOTION for Sanctions by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 09/12/2006)
09/13/2006	<u>327</u>	Opposition re <u>26</u> MOTION for Sanctions filed by Kathleen Dennehy, Massachusetts Department of Corrections. (Adams, Jody) (Entered: 09/13/2006)
09/15/2006	<u>328</u>	Judge Rya W. Zobel : ORDER entered denying <u>26</u> Motion for Sanctions (Johnson, Jay) (Entered: 09/15/2006)
09/21/2006	<u>329</u>	MOTION for Extension of Time to 11/9/06 to file responsive pleading by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 09/22/2006)
09/21/2006	<u>330</u>	MOTION for Clarification re <u>28</u> Order on Motion for Sanctions by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 09/22/2006)
10/13/2006	<u>331</u>	Opposition re <u>24</u> MOTION to Dismiss filed by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 10/16/2006)
10/23/2006	<u>332</u>	Emergency MOTION for Court Order by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 10/24/2006)
10/26/2006	<u>333</u>	MOTION for Court Order by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 10/27/2006)
11/01/2006	<u>334</u>	Opposition re <u>33</u> MOTION for Order <i>regarding Legal Photocopies and/or Motion to Strike</i> filed by all defendants. (Attachments: # <u>1</u> Exhibit 1 and 2) (Adams, Jody) (Entered: 11/01/2006)
11/08/2006	<u>335</u>	US Marshal Process Receipt and Return for Civil Rights Action. Ma.Michael Maloney Correction Legal Division served Delivered on does not work there any longer. (Johnson, Jay) (Entered: 11/09/2006)
11/08/2006	<u>336</u>	US Marshal Process Receipt and Return for Civil

		Action.(Peter Allen) Ma.Dept of Correction Legal Dept. Does not work there any longer (Johnson, Jay) (Entered: 11/09/2006)
12/06/2006	<u>37</u>	MOTION for Order for production of documents..... by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 12/08/2006)
12/06/2006	<u>38</u>	Opposition re 23 MOTION to Vacate <i>Plaintiff's Indigency Status</i> filed by Joseph Peter Schmitt. (Attachments: # 1 Part 2)(Johnson, Jay) (Entered: 12/08/2006)
12/19/2006	<u>39</u>	(emergency) MOTION for Order by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 12/20/2006)
01/24/2007	<u>40</u>	US Marshal Process Receipt and Return for Civil Rights Action. MCI Cedar junction (Thomas) served Delivered on 1/19/07 (Johnson, Jay) Modified on 1/25/2007 (Johnson, Jay). (Entered: 01/25/2007)
01/24/2007	<u>41</u>	US Marshal Process Receipt and Return for civil rights action. (Smith) MCI Cedar Junction served Delivered on 1/19/07 (Johnson, Jay) (Entered: 01/25/2007)
01/24/2007	<u>42</u>	US Marshal Process Receipt and Return for civil rights action. MCI Cedar Junction (Mulvey) served Delivered on 1/19/07 (Johnson, Jay) (Entered: 01/25/2007)
01/26/2007	<u>43</u>	NOTICE of Appearance by Jody T. Adams on behalf of Carter Thomas, Jeffrey Smith, Patrick Mulvey (Adams, Jody) (Entered: 01/26/2007)
01/26/2007	<u>44</u>	Opposition re <u>37</u> MOTION for Order to production of documents filed by all defendants. (Adams, Jody) (Entered: 01/26/2007)
02/05/2007	<u>45</u>	Judge Rya W. Zobel : ORDER entered denying <u>32</u> Motion for Order, denying <u>33</u> Motion for Order, denying <u>37</u> Motion for Order, denying <u>39</u> Motion for

		Order, denying <u>23</u> Motion to Vacate, granting <u>29</u> Motion for Extension of Time, denying <u>30</u> Motion for Clarification; granting #24 as to certain defendants. In 10 days, plaintiff shall file an inventory of the non-contraband personal property. (Urso, Lisa) (Entered: 02/05/2007)
02/05/2007	<u>46</u>	US Marshal Process Receipt and Return for Civil Action. MCI Cedar Junction served Delivered on 1/31/07 (Johnson, Jay) (Entered: 02/07/2007)
02/05/2007	<u>47</u>	US Marshal Process Receipt and Return for civil action. David Nolan served Delivered on 1/31/07 (Johnson, Jay) (Entered: 02/07/2007)
02/12/2007	<u>48</u>	Response by Joseph Peter Schmitt to 45 Order regarding iventory of property...(Johnson, Jay) (Entered: 02/13/2007)
02/20/2007	<u>49</u>	MOTION for Clarification by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 02/21/2007)
02/26/2007	<u>50</u>	MOTION for Reconsideration re 45 Order on Motion for Order,,,, Order on Motion to Vacate, Order on Motion for Extension of Time, Order on Motion for Clarification,,,,,, by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 02/27/2007)
03/06/2007	<u>51</u>	Opposition re 50 MOTION for Reconsideration re 45 Order on Motion for Order,,,, Order on Motion to Vacate, Order on Motion for Extension of Time, Order on Motion for Clarification,,,,,, filed by all defendants. (Adams, Jody) (Entered: 03/06/2007)
03/23/2007	<u>52</u>	MOTION to Dismiss (<i>Renewed</i>) by Kathleen Dennehy, Massachusetts Department of Corrections. (Attachments: # 1 Exhibit 1# 2 Exhibit 2)(Adams, Jody) (Entered: 03/23/2007)
03/26/2007	<u>53</u>	MOTION to Stay <i>Pending the Outcome of Defendants' Renewed Motion to Dismiss</i> by Kathleen Dennehy,

		Massachusetts Department of Corrections.(Adams, Jody) (Entered: 03/26/2007)
04/09/2007	<u>54</u>	Opposition re 52 MOTION to Dismiss (<i>Renewed</i>) filed by Joseph Peter Schmitt. (Attachments: # 1 Exhibits 1-11)(Johnson, Jay) (Entered: 04/10/2007)
04/23/2007	<u>55</u>	MOTION to Compel (Copying) by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 04/24/2007)
04/24/2007	<u>56</u>	Opposition re <u>55</u> MOTION to Compel <i>and Motion for Sanctions</i> filed by Kathleen Dennehy, Massachusetts Department of Corrections. (Adams, Jody) (Entered: 04/24/2007)
06/05/2007	<u>57</u>	MOTION for ruling on Motion for Reconsideration by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 06/06/2007)
07/10/2007	<u>58</u>	Judge Rya W. Zobel : ORDER entered denying <u>50</u> Motion for Reconsideration ; granting <u>52</u> Motion to Dismiss. Judgment may be entered dismissing the complaint. (Urso, Lisa) (Entered: 07/10/2007)
07/10/2007	<u>59</u>	Judge Rya W. Zobel : ORDER entered. JUDGMENT entered dismissing the complaint. (Urso, Lisa) (Entered: 07/10/2007)
07/23/2007	<u>60</u>	MOTION for Reconsideration re <u>59</u> Order and Judgment Dismissing Case by Joseph Peter Schmitt. (Attachments: # 1 Exhibit 1-3)(Johnson, Jay) (Entered: 07/24/2007)
07/25/2007	<u>61</u>	Opposition re 60 MOTION for Reconsideration re <u>59</u> Judgment filed by David Nolan, Stephen Kennedy, Massachusetts Department of Corrections, Michael T. Maloney, Carter Thomas, Jeffrey Smith, Patrick Mulvey. (Brenner, Jody) (Entered: 07/25/2007)
07/30/2007	<u>3</u>	Judge Rya W. Zobel : endorsedORDER entered denying 60 Motion for Reconsideration (Urso, Lisa) (Entered: 07/31/2007)

09/19/2007	<p>362 NOTICE OF APPEAL as to <u>59</u> Judgment, Order on Motion for Reconsideration, <u>58</u> Order on Motion for Reconsideration, Order on Motion to Dismiss by Joseph Peter Schmitt NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerk/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 10/9/2007. (Johnson, Jay) (Entered: 09/19/2007)</p>
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